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DECLARATION OF ALICE DOWNIE

I, Alice D. Downie, declare as follows:

1.   I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), where I have been employed for approximately 18 years. I have personal, first-hand knowledge of the following facts and could and would testify to these facts fully and truthfully if called and sworn as a witness.

2.   I am employed by the FBI and work in the FBI office in Alpine, Texas, where I have been stationed since April 2018. Prior to April 2018, I was stationed at FBI Headquarters in Washington, DC since January 2013. From November 2011 to January 2013, I was the FBI Legal Attaché in Kyiv, Ukraine.

3.   On September 23, 2020, I was assigned to take over as case agent on the Thomas Arthur investigation due to the relocation of the previous case agent, Jeremy Ewan, to FBI Rapid City, South Dakota.

4.   On September 3, 2020, FBI Operational Networks Technology Unit ("ONTU") began upgrading the FBI El Paso system where digital evidence is stored and forensically analyzed from Microsoft Server 2016 to Microsoft Server 2019. Although the upgrade process had been tested and had been successfully deployed within the FBI, it became apparent shortly after the process was initiated that there were problems with the upgrade process on the El Paso system. FBI ONTU later learned that these problems resulted in data becoming corrupt and inaccessible.

5.   On or about September 21, 2020, I learned that, during the upgrade, problems developed which resulted in the data in the Arthur case becoming corrupt and inaccessible.

6.   The original evidence was not affected. Instead, the data stored on the forensic image copies of the original evidence, along with all the bookmarks which identified relevant items, had been rendered inaccessible.

7.   FBI ONTU has been working directly with Microsoft storage engineers to develop a resolution, which is ongoing.

8.   On September 25, 2020, FBI deployed ten forensic examiners to Albuquerque, New Mexico to assist with re-imaging and re-processing the electronic evidence in this case.

9.   On September 25, 2020, the original electronic evidence was transported to the FBI Albuquerque computer lab, where more than 22 terabytes of data contained in the original evidence was imaged again. After evidence items are imaged, they are then "processed". Processing is done by computer software which uses a graphical user interface to convert the raw data into a user-friendly, usable format. The software presents the data to the analyst in the same way it was organized and saved by the original user, using the same folders and file names. As of September 29, 2020, nine (9) of seventeen (17) items had completed processing.

10.   The next step is a "review" process to locate the previously identified items of relevance within the imaged copies of the electronic evidence. The initial analysis of this data took the case agent from approximately November 2019 to March 2020, to accomplish. As of September 29, 2020, five (5) items had completed review.

11.   The last step is for all identified relevant items to be exported to external media, and for the forensic examiners to issue

1 technical reports pertaining to the entire process. This phase has

2 not yet begun on the 17 items.

3   12.   We currently estimate that it will take an additional two

4 (2) months to complete the review and reporting processes.

5   13.   To prevent another loss of data going forward, results are

6 being saved to external media as review and analysis is being

7 conducted. Processing data is backed up incrementally every night to

8 a separate backup server.

9   14.   Additionally, due to the ongoing server problem at FBI El

10 Paso, the imaging and processing of the three (3) Mr. Double servers

11 from the Netherlands will take place at the FBI lab in Quantico,

12 Virginia. Each of these servers can store up to two (2) terabytes of

13 data; however, as of September 29, 2020, the FBI had not yet

14 determined the format of the data stored on the servers or begun the

15 steps to analyze the data. Therefore, it is not possible at this

16 time to provide an accurate estimate of the time it will take to

17 image, process, and analyze the data on those servers.

18   I declare under penalty of perjury under the laws of the United

19 States of America that the foregoing is true and correct to the best

20 of my knowledge and that this declaration is executed at Alpine,

21 Texas, on *September 29, 2020*.

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24   *Alice D. Downie*

25   Alice D. Downie
                                          Special Agent, FBI

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